



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401

May 23, 2019

Hon. Michael J. Algeo, Chairman
Maryland Racing Commission
300 E. Towsontown Boulevard
Towson, Maryland 21286

RE: The Stronach Group's Stewardship of Pimlico

Dear Chairman Algeo:

We are writing to express our deep concern about stewardship of Pimlico Race Course by The Stronach Group ("Stronach"). Stronach has pursued a deliberate strategy of allowing Pimlico to sink into disrepair so it can move the Preakness out of Baltimore City.

The collapse of plumbing and toilet facilities during this Preakness weekend is the direct result of Stronach's refusal to use racing facility money to perform critical maintenance at the track. Their willful neglect of Pimlico has become an embarrassment to the State of Maryland and to racing.

We call upon the Commission to perform its duty to the public and the racing community. The Commission needs to order an independent public accounting of Stronach's maintenance and management of Pimlico, its use of facility and purse funds, and its collection of admissions and amusement taxes.

The Racing Commission is not a toothless tiger here, and it should not become one. Under Maryland law, the Commission has the legal authority to employ accountants at the licensees' expense to ensure compliance with the statute and the conditions of the license. We call upon the Racing Commission to use its existing legal authority to hire a major independent accounting firm to review the Stronach's books and records, its use of facility and purse funds, its collection of admissions taxes, and most importantly, its management of Pimlico and its physical plant.

As a licensee, Stronach has a license to conduct racing in Maryland only as a matter of public trust. A racing license is a privilege and not a right. The Racing Commission has the

authority and responsibility to issue racing licenses only to those race track operators whose performance meets the standards of state law and whose stewardship of Maryland racing advances the goals and special heritage of the racing industry.

We are deeply concerned about Stronach's conduct as a racing licensee, and especially the failure of its stewardship of the Preakness, the crown jewel of Maryland racing. Stronach does not own the Preakness. Instead, the Preakness is a deep part of Maryland heritage, and it is both authorized and protected by state law.¹ The Maryland Racing Commission acts as a fiduciary for the state, insuring that its broad statutory authority to protect the Preakness and Maryland racing for the citizens of the State.

The Commission has the authority, and indeed the responsibility, audit and investigate licensee conduct, to suspend or revoke licenses or other impose sanctions or operating conditions upon licensees who do not meet their legal responsibilities to Maryland racing. To date, the Commission has taken no action while Stronach willfully has allowed Pimlico to deteriorate to the point that toilets don't work, plumbing fails, and grandstands must be closed. Meanwhile, Stronach invested 87% of the State-designated repair and maintenance funds at Laurel Park, according to the Baltimore Sun.

The Commission's responsibility to closely regulate Stronach's conduct as a licensee has special importance given the high level of state investment in Maryland racing. In the last two years alone, the General Assembly has authorized over \$114 million in VLT revenues for renovation and purses under the Stronach license. The Racing Commission has a special responsibility to insure that that this historically high level of state investment has been managed appropriately by all of the stakeholders, especially Stronach as licensee.

It has become clear that Stronach has not met its responsibility to the Commission and to Maryland racing as a licensee:

- Recently, on the eve of the Preakness, it was announced that 7,000 seats in the grandstand would be closed because of Stronach's failure to perform simple maintenance;
- While Stronach has made repairs and maintenance at Laurel Park, it has pursued a deliberate policy of allowing Pimlico to sink into disrepair, despite its legal responsibility as a licensee to maintain the track. The legislature has authorized \$37,902,749 in subsidies to Stronach for track renovation and facility improvement and maintenance over the last five years through the Racetrack Facilities Renewal Account (RFRA). Yet Stronach has deliberately allowed Pimlico to sink into an obvious state of disrepair. Their needs to a public accounting of Stronach's management of state funds for facility improvement and maintenance.

¹ Md. State Government Art. §9-1A-09.

Stronach has simply chosen not to maintain the facility as part of its strategy to abandon Pimlico and move the Preakness to Laurel Park. The Racing Commission cannot sit idly by while Stronach allows Pimlico to sink into complete disrepair.

There has been much public focus on Stronach's failures as a licensee and steward of Pimlico. The public has a right to ask: What will the Commission do to make sure Stronach maintains Pimlico in reasonable condition? What will the Commission do to ensure accountability and appropriate use of racetrack improvement funds by Stronach? What will the Commission do to meet the General Assembly's requirement that the Preakness remain in Baltimore?

The Commission has a choice to make here: Will it regulate Stronach, or collaborate with Stronach? Will it force Stronach to obey the law, maintain Pimlico, account for its state funding, and meet its obligations as a licensee? Or will it collaborate with Stronach, actively or passively, in allowing Pimlico to become unusable and allowing Stronach to move the Preakness out of Baltimore?

The Commission has a duty to ensure that its licensees maintain the track facilities in reasonable condition. The Commission is also the body responsible for the oversight of Stronach's use of racetrack improvement funds. The Racing Commission should instruct Stronach to begin immediate correction of all engineering report issues, and if not, to consider imposing fines and other monetary penalties upon Stronach if it fails to address these issues.

There are critical financial reporting issues as well. These include wide discrepancies in reported attendance. As Baltimore City Solicitor Andre Davis observed in his May 8, 2019 letter to the Comptroller, the attendance announced by Stronach for the 2017 meet was 57 percent higher than the attendance reported by the Commission. This raises substantial issues concerning the accuracy of Stronach's report and its compliance with Maryland's admissions and amusement tax. The City Solicitor's letter points out other significant discrepancies in Stronach's attendance and revenue reporting.

There are at least 176 entities which comprise the Stronach Group, and at least 14 have some apparent involvement in Maryland racing. The Stronach Group has an obligation to account to the Racing Commission and the State the role of each of these entities in Maryland racing, as well as a financial accounting of any disposition of state funds among these entities. This now is particularly important because Stronach reported combined operating losses for Pimlico and Laurel Park to the Maryland Racing Commission as \$15 million in 2018, 66.6% more than the nearly \$9 million combined loss in the prior year. There has been a complete lack of transparency about Stronach's financial operations and its management of the State's investment.

The Maryland Racing Commission has "virtual plenary authority" to regulate Maryland racing. *Maryland Racing Commission v. Cloverleaf Enterprises*, 738 A.2d 898 (Md. App. 1999). The Commission has statutory authority to determine how a licensee's financial records

are maintained, to employ accountants to review the licensees operations, issue subpoenas, and investigate the operations of the track. MD Code, Business Regulation, § 11-211. The Commission has the legal authority to conduct audits and financial reviews at the licensees' expense. The Commission also has legal obligation to enforce the Stronach's obligations to the State, including its duty to make "ongoing investment in capital maintenance and improvements in horse racing facilities" as part of an overall master plan for capital improvements. SG§ 9-1A-09(b)(5).

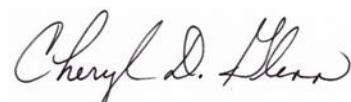
Since 1920, the Maryland Racing Commission has exercised the special responsibility to make sure that racing licensees protect the State's racing heritage, and to protect the taxpayers' significant investment in racing. In its 99 year history, the Commission has frequently acted with authority and decisiveness to protect the integrity of Maryland racing. Now the Commission needs to act again decisively again.

Maryland taxpayers and the racing community need a public accounting of Stronach's management of state funds, its license conduct, and its stewardship of Maryland racing. We call upon the Racing Commission to employ independent, outside auditors to review the books, records, and operations of this licensee, and to provide a public accounting to the Commission, the General Assembly, and the people of Maryland about Stronach's management of its license and the State's investment.

Sincerely,



Senator Antonio L. Hayes
Chair, Baltimore City Senate Delegation



Delegate Cheryl D. Glenn
Chair, Baltimore City House Delegation

cc: Hon. Larry Hogan
Hon. Peter Franchot
Hon. Jack Young
Members of the General Assembly
Members of the Baltimore City Council
Members, Maryland Racing Commission